

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

FRED CHISOM,

Plaintiff,

v.

CLALLAM BAY CORRECTIONS
SUPERINTENDENT,

Defendant.

Case No. C04-5590FDB

ORDER DENYING MOTION TO
AMEND

This case has been referred to United States Magistrate Judge J. Kelley Arnold pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on plaintiff's motion to amend his complaint. (Dkt. # 54). In that motion plaintiff states "I Fred Chisom petition the court to amend complaint, John Doe." (Dkt. # 54). Plaintiff also asks for Marshal Service forms. Plaintiff does not indicate what amendments he wishes to make or who John Doe is. While the court liberally construes the pleading the court cannot add or supply facts or allegation plaintiff has not plead. Pena v. Gardner, 976 F. 2d 469 (9th Cir. 1992).

This case was filed in September of 2004. A scheduling order was entered In May of 2005. (Dkt. # 30). Discovery in this action ended in October of 2005 and dispositive motions were due in November of 2005. The only named defendant conducted discovery and has filed a timely motion to dismiss. (Dkt. #

1 47 with attached deposition). To allow new claims, or new defendants, would entail reopening discovery
2 and striking pending motions. To allow amendment at this stage of the litigation is prejudicial to the
3 defendant who has complied with the court's scheduling order.

4 Plaintiff has not articulated why amendment is necessary at this late stage of the litigation. Fed. R.
5 Civ. P. 15 (a) allows a court to grant or deny a motion of this nature after an answer has been filed. The
6 rule states "leave shall be freely given when justice so requires." Here, plaintiff has failed to seek to amend
7 in a timely manner and failed to inform the court what amendment he seeks to make. These factors militate
8 against granting the motion. The motion is **DENIED**.

9 The clerk is directed to send a copy of this Order to plaintiff and counsel for defendant.

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11 DATED this 4th day of January, 2006.

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13 /s/ J. Kelley Arnold
14 J. Kelley Arnold
15 United States Magistrate Judge
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